



Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, MARCH 18, 1999
WWW.USDOJ.GOV

AT
(202) 616-2771
TDD (202) 514-1888

JUSTICE DEPARTMENT FILES LAWSUIT TO BLOCK SUIZA FOODS CORPORATION'S ACQUISITION OF BROUGHTON FOODS COMPANY

Merger Would Result in Higher Prices for Milk Sold to Kentucky Schools

WASHINGTON, D.C. -- The Department of Justice today filed a civil antitrust lawsuit to block Suiza Foods Corp. from acquiring Broughton Foods Co. because the transaction would result in higher prices for milk sold to school districts in Kentucky. In filing the complaint, the government sought a temporary restraining order to prevent the companies from closing the deal until a preliminary injunction motion can be resolved. Dallas-based Suiza and Marietta, Ohio-based Broughton agreed not to oppose the restraining order.

Earlier this week, the Department announced its intention to file a suit to block the transaction. Today's lawsuit was filed in U.S. District Court in London, Kentucky.

Suiza and Broughton are head-to-head competitors for school milk contracts in dozens of school districts in south central Kentucky. According to the complaint, the merger of Suiza and Broughton would create a monopoly on bids to supply milk in more than 20 school districts in south central Kentucky. In at least 30 additional south central Kentucky school districts, the merger would reduce the number of bidders from three to two.

“This transaction would substantially lessen competition for school milk business and result in higher prices and poorer services to schools and school children in Kentucky,” stated Joel I. Klein, Assistant Attorney General of the Department’s Antitrust Division. “If allowed to proceed, the merger would eliminate the chief source of school milk competition in the region.”

Many of the districts that would face higher school milk prices as a result of the merger have a large percentage of students who are entitled to participate in the U.S. Department of Agriculture school lunch program. As a result of paying higher milk prices, south central Kentucky school districts would have less money to spend on other foods provided by the program.

The Department said that the merger of Suiza and Broughton is set to occur in an industry that has experienced a history of collusion. While neither Suiza nor Broughton were involved in any allegations of collusion in Kentucky, in 1992, Flav-O-Rich Inc. and Southern Belle Dairy Co. pleaded guilty to criminal antitrust bid-rigging charges involving milk sold to schools in Kentucky and admitted to a 10-year bid allocation conspiracy. After the conspiracy ended, Suiza acquired the Flav-O-Rich dairy plant that was involved in the Kentucky bid rigging, and Broughton acquired the Southern Belle dairy plant that was involved in the same bid rigging. The complaint stated that the history of collusion in the industry indicates that the school milk markets are conducive to collusion and that the proposed merger could recreate the anticompetitive effects of the prior bid-rigging conspiracy.

Suiza, a Delaware Corporation headquartered in Dallas, owns and operates 37 fluid milk processing plants in the United States. In 1997, Suiza had net sales of approximately \$1.8 billion.

Broughton owns and operates three fluid milk processing plants in the United States. In 1997, Broughton had net sales of approximately \$87.2 million.